

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MUKUND MOHAN,

Defendant.

No. CR21-041 JCC

GOVERNMENT'S SUPPLEMENTAL
SENTENCING MEMORANDUM

Comes now the United States of America, by and through Tessa M. Gorman, Acting United States Attorney for the Western District of Washington, Andrew C. Friedman, Assistant United States Attorney for said District, Joseph Beemsterboer, Acting Chief, Fraud Section, Criminal Division, United States Department of Justice, and Christopher Fenton, Trial Attorney for said Section, and files this Government's Supplemental Sentencing Memorandum.

In its original sentencing memorandum, the government discussed the sentences imposed in the relatively-limited number of PPP cases sentenced to date, and argued that the 36-month sentence the government is recommending is consistent with the sentences in those other cases. Since the time of that filing, several other such sentencings have taken place or come to the government's attention. These sentencings further support the

1 conclusion that the sentence the government is recommending is necessary to avoid
2 unwarranted disparities with sentences in comparable cases.

3 Most notably, another PPP case was sentenced last week in this District. Austin
4 Hsu was a local chiropractor who applied for a total of nearly \$1.2 million of fraudulent
5 PPP (and other COVID-19-related) loans, and who received around \$709,000 of loan
6 proceeds. Judge Robart sentenced Hsu to 24 months' imprisonment. *See United States v.*
7 *Austin Hsu*, No. CR 20-0191JLR, Judgment in a Criminal Case (W.D. Wash. Aug. 10,
8 2021). Mohan applied for nearly five times as much money, and received two-and-a-half
9 times as much, as Hsu. To avoid unwarranted disparity, Mohan's sentence should be
10 substantially higher than Hsu's. The 36-month sentence that the government is
11 recommending is appropriately higher.

12 Two recent cases from other districts also support the government's 36-month
13 recommendation. In *United States v. Philus*, Case No. 1:21CR20067 (S.D. Fla.), the
14 defendant, a small business owner whose business was suffering, submitted two
15 fraudulent loan applications seeking a total of \$688,325. Nearly, all of the money was
16 apparently returned, and the defendant received only about \$2,000 in personal benefit.
17 He pled guilty to one count of conspiracy and was sentenced to 30 months'
18 imprisonment. Mohan's case is more egregious in terms of size, number of loan
19 applications, and the fact that Mohan created or acquired multiple fraudulent businesses
20 for the sole purpose of committing fraud. Mohan deserves a higher sentence.

21 In *United States v. Smith*, Case No. 20-CR-196 (E.D. Wis.), the defendant,
22 a special education teacher with no prior criminal history, conspired with his brother and
23 others to submit five fraudulent PPP loan applications seeking \$960,000 on behalf of his
24 own failed business and several other businesses. Smith and his co-conspirators received
25 \$730,000 of that amount. Smith pled guilty to one count of bank fraud and was
26 sentenced to 36 months' imprisonment. Mohan's case, which involves dramatically more
27 loss, merits at least as long a sentence.

1 In sum, *Hsu*, *Philus*, and *Smith* suggest that the 36-month sentence that the
2 government is recommending is consistent with the sentences imposed in similar cases in
3 this District and elsewhere, and that a lesser sentence would create, rather than avoid,
4 unwarranted disparities between defendants. As a result, the Court should follow the
5 government's recommendation and sentence Mohan to 36 months' imprisonment.

6 DATED: this 18th day of August, 2021.

7
8 Respectfully submitted,

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